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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/475,364
Filing Date: December 30, 1999
Appellant(s): MATHER ET AL.

Brian A. Lemm
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/6/06 appealing from the Office action mailed 8/19/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,279,037	TAMS et al	8-2001
6,182,053	RAUBER et al	1-2001
EP 0787224 BI	KADABA et al	8-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tams et al (US 6,279,037), and further in view of Rauber et al (6,182,053).

As per claim 1, Tams et al, et al discloses:

A portable data terminal, (Abstract, lines 1-5, [RMON2, {remote monitoring device}], and col. 2, lines 13-21, [shows that the RMON is used for monitoring]), programmed to;

Record information regarding the receipt of the item, (Abstract, lines 1-3, [collecting traffic data using RMON2], and abstract, lines 20-22, [creating and maintaining a database of collected traffic information]);

Record information regarding the internal movement of the item wherein the receipt information and the internal movement information are recorded with a data collection format, (col. 9, lines 26-38, [shows data is collected from one of the probes for a monitored conversation between 2 devices, where the data is stored in a table supported by that probe and receipt data is kept in the database]);

A base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format, (Fig. 2, [shows probes 1, 2, and 3 are connected to the management station, which represents the base station], w/ col. 10, lines 7-9, where the management station collects and processes network traffic data from the probes, w/ col. 12, line 65-col. 13, line 5 and col. 13, lines 18-23, [after collected, the data is converted into a format], w/ col. 11, lines 50-53, it is shown that the management system signals the probe being initialized to create the alMatrixTopN table format if it is previously determined that the probe includes alMatrix support. Once the alMatrixTopN table is determined successful, the probe information in the memory is updated to include an entry on the probe being initialized, and to indicate that the probe's data is in alMatrixTopN format as shown in col. 11, lines 54-60); and

Means for allowing a user to create one or more data collection formats at the base station, and to transmit the one or more data collection formats to the portable data terminal, (Col. 11, lines 19-63, [initializing probe and updating the probe terminal count mode format in the memory to reflect the presence and data table format of the detected probe]);

Wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station, (Col. 11, lines 60-63, Here, Tams et al shows the successful updating of the probe information in memory to reflect the presence and data table format for the detected probe, which is a result of signaling by the management station of the creation of a particular format for a probe. Since the probe information is updated to reflect the presence and data table format for the

detected probe, this probe now has the ability to collect data in that particular data table format);

Tams et al does not specifically disclose that the system is for tracking...packages within an organization, but does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38. As described in Merriam Webster's dictionary, the term "traffic" is defined by "The movement through an area or along a route".

However, Rauber et al discloses that his system is for tracking packages within an organization in the abstract, lines 1-8. Rauber et al discloses this limitation in an analogous art for the purpose of showing that the management of inventory can be used for tracking inventory as it passes through various stages within the warehouse.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to track packages within an organization with the motivation of detecting movement to different locations.

As per claims 3, Tams et al discloses:

Further comprising a data processing unit capable of communicating with the portable data terminal, (Col. 8, lines 46-47, [central processing units]), wherein the data processing unit is programmed to:

Maintain a database of records relating to the received items, each of said records identifying an internal delivery address, (Abstract, lines 21-23, [database], Col. 22, lines 49-53, [maintains information on source and destination addresses]);

Tams et al does not disclose maintaining a database of records relating to internal movement status of a corresponding one of said received items, but does disclose maintaining a record for delivery addresses as disclosed above in the preceding paragraph.

However, Rauber et al discloses:

Maintain a database of records relating to...internal movement status of a corresponding one of said received items, (Col. 7, lines 30-48, [entering the location within the warehouse where the inventory will be initially stored, and string this information in a data record], w/ col. 9, lines 26-33, [shows that when inventory is in positioned at the loadout dock, it is tracked and displayed by the remote computer]). Rauber et al discloses this limitation in an analogous art for the purpose of showing how inventory is tracked as it moves from the initial storage position to the loadout dock position]).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to maintain a database of records relating to the internal movement status of a corresponding one of said received items with the motivation of having the ability to determine the location of the item being tracked.

Tams et al does not disclose maintain a database of recipient names, or generate a manifest of selected ones of received items, but does disclose maintaining a record for delivery addresses as disclosed above in the preceding paragraph.

However, Rauber et al discloses:

maintain a database of recipient names, (col. 10, lines 43-45, [generate a report of items identified by the customer name]), and or generate a manifest of selected ones of received items, (Col. 7, lines 30-42, [inventory data record for each piece of inventory]). Rauber et al discloses these limitations in an analogous art for the purpose of showing that the item being tracked can be located from customer name information, and the locations that an item has been can also be determined .

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to maintain a database of recipient names, and to generate a manifest of selected ones of received items with the motivation of having the ability to track and locate items by way of customer names.

As per claim 5, Tams et al fails to disclose wherein the data processing unit is further programmed to provide status information related to said received items through searches, displays, lists, reports and other query and reporting elements, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However, Rauber et al discloses:

Wherein the data processing unit is further programmed to provide status information related to said received items through searches, displays, lists, reports and other query and reporting elements, (Col. 2, lines 60-67, [indicate the status of inventory]). Rauber et al discloses this limitation in an analogous art for the purpose of showing that status information can be accessed about tracked items.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide status information related to said received items through searches, displays, lists, reports and other query and reporting elements with the motivation of having the ability to view status results of tracked items.

As per claim 6, Tams et al fails to disclose wherein the portable data terminal is further programmed to associate the receipt of items with the recipients, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However Rauber et al discloses:

wherein the portable data terminal is further programmed to associate the receipt of items with the recipients, (col. 10, lines 43-45, [generate report of items identified by the customer name]). Rauber et al discloses this limitation in an analogous art for the purpose of showing that the item being tracked can be located from recipient information.

As per claim 7, Tams et al discloses:

A display device to display information regarding the receipt and the internal movement of items, (Col. 8, line 47, [display device]);

An inputting device to input information regarding the receipt and the internal movement of items, (Col. 88, lines 48, [keyboard]);

A communication device to communicate with the base station, (Col. 8, lines 44-46, and lines 57-61, [shows that probes are coupled to the management system through interface [160]]).

As per claim 8, Tams et al fails to disclose Wherein the received items contain barcode to identify the items and the inputting device includes a barcode reader to read the barcode, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However, Rauber et al discloses:

Wherein the received items contain barcode to identify the items and the inputting device includes a barcode reader to read the barcode, (Col. 5, lines 18-22, [shows barcode scanner is used]). Rauber discloses this limitation in an analogous art for the purpose of showing that barcode scanner are used to scan in the code for an item being tracked.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for received items contain barcode to identify the items and the inputting device includes a barcode reader to read the barcode with the motivation using a bar code scanner to accurately store bar codes for items for the purpose of locating these items,

As per claim 9, Tams et al fails to disclose wherein the information displayed on the display device includes a popup list having entry items in order for a user to enter into the portable data terminal, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However, Rauber et al discloses::

Wherein the information displayed on the display device includes a popup list having entry items in order for a user to enter into the portable data terminal (Col. 9, lines 26-31, [providing a list of items on the terminal]). Rauber et al discloses this limitation in an analogous art for the purpose of showing that the user can use the terminal display to view a list of items.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include a popup list having entry items in order for a user to enter into the portable data terminal with the motivation of giving the user the option of viewing the item list on their terminal.

As per claim 10, Tams et al fails to disclose wherein the display device displays a plurality of entry fields to allow a user to enter into the portable data terminal information regarding the receipt and the internal movement of an item through the entry fields, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However, Rauber et al discloses::

Wherein the display device displays a plurality of entry fields to allow a user to enter into the portable data terminal information regarding the receipt and the internal movement of an item through the entry fields, (Col. 7, lines 30-34, [prompting the user to enter the item location]). Rauber et al discloses this limitation in an analogous art for the purpose of showing that a user is prompted to enter data.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to display a plurality of entry fields to allow a user to enter into the

portable data terminal information regarding the receipt and the internal movement of an item through the entry fields with the motivation of allowing a user to enter in data for the purpose of locating a tracked item.

As per claims 11, 12, Tams et al discloses:

Further comprising a communication medium so as to allow the portable data terminal to communicate with the base station via the communication medium/Further comprising a connection cradle so as to allow the portable data terminal to communicate with the data processing unit via the connection cradle (Col. 8, lines 44-46, [shows probes are coupled to the management system via interface [160]).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tams et al (US 6,279,037), and further in view of Rauber et al (6,182,053),and further in view of Kadaba et al (EP 0 787 334 B1).

As per claim 4, neither Tams et al nor Rauber et al disclose wherein the data processing unit is further programmed to maintain a database of sender names, and carrier names related to said received items, however Tams et al does disclose a system for collecting, monitoring and processing traffic for network data, as shown in col. 9, lines 27-38.

However, Kadaba et al discloses:

Wherein the data processing unit is further programmed to maintain a database of sender names, (Col. 7, line 7) and carrier names related to said received items, (Col. 5, lines 15-18, Col. 6, line 53-Col. 7, line 5, [driver's PDA information is downloaded]).

Kadaba et al discloses this limitation in an analogous art for the purpose of showing that items can be tracked by using sender and carrier names.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to maintain a database of sender names and carrier names with the motivation of having the ability of locating items by sender and carrier names.

(10) Response to Argument

Appellant argues that the subject matter defined by claims 1,3 and 5-12 would not have been obvious over Tams et al in view of Rauber et al. Specifically, as per claim 1, appellant argues that the present invention provides the ability for each organization to utilize its own preferred format for recording data relating to the receipt and internal delivery of an item by allowing the data collection format for recording tracking information to be created and/or modified by the user of the portable data terminal in accordance with the user's needs, and that Tams et al is not directed to tracking receipt and internal movement resulting in delivery or other final disposition status of items such a packages within an organization as the present invention. However, in claim 1 of the present invention, the following is recited: "A system for tracking receipt and internal movement resulting in a delivery *or* other final disposition status of items *such as* packages within an organization, wherein each item is sent by a sender and received from a carrier to be delivered to a recipient". First, Tams et al does disclose tracking receipt and internal movement resulting in a final disposition status as shown in col. 6, lines 55-57, where Tams et al shows the collection of network traffic data, and use of this data in generating displays and/or network traffic databases. In

this case the collection of network traffic data represents tracking receipt and internal movement in a network. Also, network traffic involves messages or data conveyed through a network, which involves transporting or carrying this data from one place to another; thereby meaning, that the data must have a starting and final disposition. In addition, specifying "items *such as* packages" as a type of claim amounts to the recitation of non-functional data. Since the term "such as" has been used, the inclusion of "packages" has no bearing on the invention as claimed, and thus carries no patentable weight.

Appellant also argues that even if Tams et al was considered analogous art, it still does not disclose, teach or suggest *a base station capable of communication with the portable data terminal for uploading electronic files for modifying the data collection format; and means for allowing a user to create one or more data collection formats at the base station and transmit the one or more data collection formats to the portable data terminal, wherein the portable data terminal can collect data in one or more data collection formats transmitted by the base station.* However, Tams et al discloses the limitations of the present invention. First, Tams et al discloses a base station capable of communication with the portable data terminal for uploading electronic files for modifying the data collection format in Fig. 2, which shows that probes 1, 2, and 3, which can be stand-alone devices (these represent the portable data terminals) are connected to the management station, (which represents the base station). In this case, the management station communicates with the probes as shown in col. 10, lines 7-9, where the management station collects and processes network traffic data from the

probes. In addition, the uploading of electronic files for modifying the data collection format starts with showing that after data is collected from the probes by the management station, the data goes to the conversion step, where the collected network data is converted into a preselected common format in col. 12, line 65-col. 13, line 5 and col. 13, lines 18-23. In addition, in Col. 11, lines 19-63, it is shown that once a probe is detected, a determination is made as to the network traffic table format that is to be used with the detected probe. *Specifically* in col. 11, lines 50-53, it is shown that the management system signals the probe being initialized to create the alMatrixTopN table format if it is previously determined that the probe includes alMatrix support. Once the alMatrixTopN table is determined successful, the probe information in the memory is updated to include an entry on the probe being initialized, and to indicate that the probe's data is in alMatrixTopN format as shown in col. 11, lines 54-60. These features represent the uploading of electronic files for modifying the data collection format, where uploading is represented by signaling, then updating the memory with alMatrixTopN format. Finally, Tams et el discloses that the portable data terminal can collect data in the one or more data collection formats transmitted by the base station, in col. 11, lines 60-63. Here, Tams et al shows the successful updating of the probe information in memory to reflect the presence and data table format for the detected probe, which is a result of signaling by the management station of the creation of a particular format for a probe. Since the probe information is updated to reflect the presence and data table format for the detected probe, this probe now has the ability to collect data in that particular data table format.

Appellant also argues that Rauber et al does not cure the deficiencies according to appellant's arguments in the preceding paragraphs. However, as discussed in the rejection, Tams et al discloses all of the limitations of claim 1, except for the delivery of packages. Rauber et al is directed towards the management of inventory where the updating of records is implemented as it passes through various sages within an inventory warehouse. The Rauber et al reference was combined with Tams et al in order to show that packages can be one of many items tracked within an organization. This limitation is shown in the abstract, lines 1-8 of Rauber et al for the purpose of detecting movement to different locations. However, as already discussed above in the preceding paragraphs, specifying "items *such as* packages" as a type of claim amounts to the recitation of non-functional data. Since the term "such as" has been used, the inclusion of "packages" has no bearing on the invention as claimed, and thus carries no patentable weight.

As per claim 4, appellant makes arguments similar to those of claim 1, and therefore, claim 4 is still rejected for all the reasons discussed above with respect to claim 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Akiba Robinson-Boyce

Conferees:

John Hayes

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER

John Weiss 1-8-07